

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SHIRLEY A. CHAVIS,

Plaintiff,

v.

5:11-CV-220

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

THOMAS J. McAVOY
United States District Judge

DECISION & ORDER

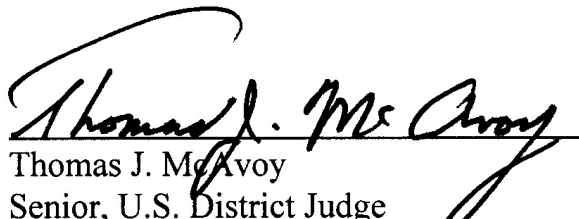
This matter brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. Therese Wiley Dancks, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

No objections to the September 21, 2012 Report-Recommendation were raised. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, this Court adopts the Report-Recommendation for the reasons stated therein.

It is, therefore, **ORDERED** that (1) the matter be remanded for a proper determination of Plaintiff's Residual Functioning Capacity considering any physical non-exertional limitations; (2) the Administrative Law Judge ('ALJ') shall obtain the opinion of a vocational expert if Plaintiff's non-exertional limitations present significant limitations; and (3) all other determinations made by the ALJ be affirmed.

IT IS SO ORDERED.

Dated: December 11, 2012


Thomas J. McAvoy
Senior, U.S. District Judge